

Version 3--11/16/07

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re JDS UNIPHASE CORPORATION  
SECURITIES LITIGATION

No. C 02-1486 CW

VERDICT QUESTIONS  
FORM

**Part A--Section 10(b) and Section 20 Liability**

Please answer the questions below for each of the statements on the Table of Challenged Statements and indicate your unanimous answers on the Verdict Table. If a box on the Verdict Table is blacked out or already filled in, that means that the question does not apply to the corresponding statement or that the parties have agreed to an answer. Please skip any question that is blacked out or already answered. A "yes" answer favors Plaintiffs; a "no" answer favors Defendants.

1. Do you find that this challenged statement contains an untrue statement of material fact, or omits a material fact necessary under the circumstances to keep the statement that was made from being misleading? Answer Yes or No.

If you answered "Yes," please proceed to Question 2. If Question 2 is blacked out, please skip to Question 3. If you answered "No," please return to Question 1 for the next statement.

2. Do you find that the challenged statement was not accompanied by meaningful cautionary statements as defined in the instructions? Answer Yes or No.

If you answered "Yes," please proceed to Question 3. If you answered "No," please return to Question 1 for the next statement.

3. Please enter "Yes" in the box representing any Individual Defendant who you find was substantially involved in the preparation of the challenged statement.

If you identified any Individual Defendant, or if any Individual Defendant was already marked, please proceed to Question 4a. If you did not identify any Individual Defendant and no Individual Defendant was already marked, please return to Question 1 for the next statement.

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4a. Do you find that any Individual Defendant who you found in Question 3 made or was responsible for the statement, or who the parties agree made the statement, did so with actual knowledge that the statement was materially false or misleading? Answer Yes or No.

**If you answered "No" for any Individual Defendant identified in Question 4a, please answer Question 4b for that Individual Defendant. Otherwise, skip to Question 5.**

4b. Do you find that any Individual Defendant who you found in Question 3 made or was responsible for the statement, or who the parties agree made the statement, did so with a highly unreasonable disregard for whether it was false or misleading that (i) was an extreme departure from the standards of ordinary care and (ii) presented a danger of misleading investors that was either known to the author or speaker or was so obvious that he must have been aware of it? Answer Yes or No.

**If you answered "Yes" to Question 4a or 4b for any Individual Defendant, please proceed to Question 5. Otherwise, please return to Question 1 for the next statement.**

5. Do you find that the untrue statement of material fact, or the omitted material fact, played a substantial part in causing a loss to Plaintiffs? Answer Yes or No.

**If you answered "Yes," please proceed to Question 6. If you answered "No," please return to Question 1 for the next statement.**

6. Please enter "Yes" in the box representing any Individual Defendant who you find directly or indirectly controlled the person who made the challenged statement, directly or indirectly induced the person to make the statement, and did not act in good faith.

**Please return to Question 1 for the next statement. When you have completed the chart for all statements, please review your answers recorded on the Verdict Table. If you found for Plaintiff on any statement (i.e. if you answered "yes" in Column 5 for any statement), please proceed to Part B, Question 7. Otherwise, please skip to Part D, Question 13.**

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**Part B--Section 10(b) and Section 20 Damages**

7. Which of these two methods do you find is the most accurate method for calculating damages in this case?

\_\_\_ Dollar Inflation      \_\_\_ Percentage Inflation

**If you selected "Dollar Inflation," please complete Question 8. If you selected "Percentage Inflation," please complete Question 9 on Page 5. (Do not complete both tables.)**

8. If you answered "Dollar Inflation," please complete the table, following the instructions below.

- a. Please black out Column 2 for any date on which you do not find that the challenged statement(s) on that date caused a loss (i.e. for which you answered "No" in Column 5 of the Verdict Table).
- b. Beginning with the first date that is not blacked out in Column 2, please enter the dollar amount by which you find the false or misleading statement(s) made on that date inflated the price of JDSU stock.
- c. For this first row only, please copy the amount you entered in Column 2 into Column 4.
- d. Proceed to the next row. If Column 2 is not blacked out, enter the dollar amount by which you find the false or misleading statement(s) made on this date inflated the price of JDSU stock. Enter, in Column 3, the amount, if any, by which you find that any corrective disclosures, since the date of the previous row, have reduced the inflation created by false or misleading statements. Take the number from Column 4 in the previous row, add the number, if any, in Column 2, subtract the number, if any, in Column 3, and enter the result in Column 4.
- e. Please continue to complete each row.

**When you are finished, please skip to Part C, Question 10.**

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COLUMN 1	COLUMN 1a	COLUMN 2	COLUMN 3	COLUMN 4
Date	Price per share on this Date	Inflation created by false or misleading statement(s) on this date	Reduction in inflation due to corrective events, if any, since previous date	Total inflation due to challenged statements on this date
4/25/00	\$93.38	\$		\$
5/25/00	\$79.00		\$	\$
6/25/00	\$123.44		\$	\$
7/26/00	\$135.94	\$	\$	\$
8/25/00	\$125.31		\$	\$
9/1/00	\$123.81	\$	\$	\$
9/7/00	\$119.88	\$	\$	\$
10/26/00	\$74.44	\$	\$	\$
10/30/00	\$71.31	\$	\$	\$
11/14/00	\$75.63	\$	\$	\$
11/17/00	\$70.13	\$	\$	\$
12/20/00	\$46.00		\$	\$
1/25/01	\$55.19	\$	\$	\$
2/12/01	\$40.63	\$	\$	\$
2/13/01	\$38.50	\$	\$	\$
3/23/01	\$23.19	\$	\$	\$
4/24/01	\$20.82	\$	\$	\$
5/11/01	\$20.69	\$	\$	\$
6/15/01	\$12.44		\$	\$
7/26/01	\$9.47		\$	\$

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9. If you selected "Percentage Inflation" in Question 7 above, please complete the table, following the instructions below.
- Please black out Column 2 for any date on which you do not find that the challenged statement(s) on that date caused a loss (i.e. for which you answered "No" in Column 5 of the Verdict Table).
  - Beginning with the first date that is not blacked out in Column 2, please enter the percent by which you find the false or misleading statement(s) made on that date inflated the price of JDSU stock.
  - For this first row only, please copy the amount you entered in Column 2 into Column 4.
  - Proceed to the next row. If Column 2 is not blacked out, enter the percent by which you find that any false or misleading statement(s) made on this date inflated the price of JDSU stock. Enter, in Column 3, the amount, if any, by which you find that any corrective disclosures, since the date of the previous row, have reduced the inflation created by false or misleading statements. Take the number from Column 4 in the previous row, add the number, if any, in Column 2, subtract the number, if any, in Column 3, and enter the result in Column 4.
  - Please continue to complete each row.

**When you are finished, please skip to Part C, Question 10.**

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COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Date	Inflation created by false or misleading statement(s) on this date	Reduction in inflation due to corrective events since previous date	Total inflation due to challenged statements on this date
4/25/00	%		%
5/25/00		%	%
6/25/00		%	%
7/26/00	%	%	%
8/25/00		%	%
9/1/00	%	%	%
9/7/00	%	%	%
10/26/00	%	%	%
10/30/00	%	%	%
11/14/00	%	%	%
11/17/00	%	%	%
12/20/00		%	%
1/25/01	%	%	%
2/12/01	%	%	%
2/13/01	%	%	%
3/23/01	%	%	%
4/24/01	%	%	%
5/11/01	%	%	%
6/15/01		%	%
7/26/01		%	%

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**Part C--Section 14(a) Liability**

If you found in answer to Question 1 above that Statement 10 was materially false or misleading, please answer Question 10. Otherwise, please skip to Part D, Question 13.

10. Do you find that statement 10 was an essential link in the accomplishment of the JDS-SDL merger?

☐ Yes ☐ No

**Please proceed to Question 11**

11. Do you find that Defendant Straus failed to act with ordinary or reasonable care when he made statement 10?

☐ Yes ☐ No

**Please proceed to Question 12.**

12. Do you find that Defendant Muller failed to act with ordinary or reasonable care when he made statement 10?

☐ Yes ☐ No

**Please proceed to Part D, Question 13.**

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**Part D--Section 20A Liability & Damages**

13. Do you find that one or more of the Individual Defendants made a decision to sell shares of JDSU stock using material, non-public information about the company?

Defendant Abbe Yes \_\_\_\_\_ No \_\_\_\_\_

Defendant Kalkhoven Yes \_\_\_\_\_ No \_\_\_\_\_

Defendant Muller Yes \_\_\_\_\_ No \_\_\_\_\_

Defendant Straus Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "Yes" as to any defendant, please proceed. Otherwise, sign, date and return your verdict.

If, in answer to Question 7, you selected "Dollar Inflation," please complete Question 14. If you selected "Percentage Inflation," please skip to Question 15 on Page 12. (Do not complete both tables.)

**MUST INSERT ASTERISK AND EXPLANATION FOR 10b5-1 TRADES: This is the date on which the defendant entered into a stock trading plan. The stock was actually sold on a later date.**

14. If you selected "Dollar Inflation" in Question 7, please complete the table below for any Defendant who you found sold JDSU stock using material, non-public information.

- a. Enter "Yes" in Column 2 for the date of any stock sale which you find the Individual Defendant made using material, non-public information about the company.
- b. For every date on which you answered "Yes", please enter the dollar amount by which the price of JDSU stock was inflated because the public did not have this material information.

**Then sign, date and return your verdict.**



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**Defendant Abbe**

Column 1	Column 1a	Column 2	Column 3
Stock Sale Date	Market Price Per Share on Date	Sold Using Material, Non-Public Information?	Dollar Inflation on Date of Sale
8/1/00	\$116.88		
8/11/00	\$117.75		
2/26/01	\$32.63		
2/27/01	\$27.81		
2/28/01	\$26.75		

**Defendant Kalkhoven**

Column 1	Column 1a	Column 2	Column 3
Stock Sale Date	Market Price Per Share on Date	Sold Using Material, Non-Public Information?	Dollar Inflation on Date of Sale
5/22/00	\$85.31		
5/24/00	\$83.50		
7/31/00	\$118.13		
8/4/00	\$115.94		
8/7/00	\$121.19		
8/21/00	\$124.38		
8/22/00	\$124.50		
8/31/00	\$124.48		
9/1/00	\$123.81		
9/7/00	\$119.88		
9/12/00	\$103.19		
9/18/00	\$97.81		
9/19/00	\$107.94		

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9/20/00	\$107.13		
9/21/00	\$103.50		
9/22/00	\$107.00		
9/25/00	\$106.81		
9/27/00	\$97.75		
9/28/00	\$97.38		
10/5/00	\$95.06		
10/10/00	\$90.63		
10/11/00	\$85.88		
10/13/00	\$94.38		
10/16/00	\$94.44		
10/25/00	\$71.00		
10/27/00	\$77.25		
11/1/00	\$78.56		
1/18/01	\$60.31		
3/22/01	\$25.44		
4/11/01	\$19.48		

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**Defendant Muller**

Column 1	Column 1a	Column 2	Column 3
Stock Sale Date	Market Price Per Share on Date	Sold Using Material, Non-Public Information?	Dollar Inflation on Date of Sale
5/22/00	\$85.31		
5/30/00	\$91.38		
7/31/00	\$118.13		
8/1/00	\$116.88		
8/2/00	\$112.63		
8/4/00	\$115.94		
8/7/00	\$121.19		
8/8/00	\$119.88		
8/11/00	\$117.75		
8/14/00	\$120.25		
8/16/00	\$119.44		

**Defendant Straus**

Column 1	Column 1a	Column 2	Column 3
Stock Sale Date	Market Price Per Share on Date	Sold Using Material, Non-Public Information?	Dollar Inflation on Date of Sale
8/1/00	\$116.88		
8/4/00	\$115.94		
8/7/00	\$121.19		
8/8/00	\$119.88		
2/1/01	\$55.81		
3/6/01	\$28.00		

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15. If you selected "Percentage Inflation" in Question 7, please complete the table below for any Defendant who you found sold JDSU stock using material, non-public information.

- a. Enter "Yes" in Column 2 for the date of any stock sale which you find the Individual Defendant made while using material, non-public information about the company.
- b. For every date on which you answered "Yes", please enter the percentage by which the price of JDSU stock was inflated because the public did not have this material information.

**Then sign, date and return your verdict.**

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**Defendant Abbe**

Column 1	Column 2	Column 3
Stock Sale Date	Sold Using Material, Non-Public Information?	Percentage Inflation on Date of Sale
8/1/00		
8/11/00		
2/26/01		
2/27/01		
2/28/01		

**Defendant Kalkhoven**

Stock Sale Date	Sold Using Material, Non-Public Information?	Percentage Inflation on Date of Sale
5/22/00		
5/24/00		
7/31/00		
8/4/00		
8/7/00		
8/21/00		
8/22/00		
8/31/00		
9/1/00		
9/7/00		
9/12/00		
9/18/00		
9/19/00		
9/20/00		
9/21/00		
9/22/00		

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9/25/00		
9/27/00		
9/28/00		
10/5/00		
10/10/00		
10/11/00		
10/13/00		
10/16/00		
10/25/00		
10/27/00		
11/1/00		
1/18/01		
3/22/01		
4/11/01		

Defendant Muller

Stock Sale Date	Sold Using Material, Non-Public Information?	Percentage Inflation on Date of Sale
5/22/00		
5/30/00		
7/31/00		
8/1/00		
8/2/00		
8/4/00		
8/7/00		
8/8/00		
8/11/00		
8/14/00		
8/16/00		

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Defendant Straus

Stock Sale Date	Sold Using Material, Non-Public Information?	Percentage Inflation on Date of Sale
8/1/00		
8/4/00		
8/7/00		
8/8/00		
2/1/01		
3/6/01		

Please sign, date and return this form.

Dated:

\_\_\_\_\_  
Jury Foreperson

